
HOUSE BILL 2445

State of Washington

60th Legislature

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By Representatives Pearson, Priest, Haler, Kristiansen, Armstrong, Warnick, Crouse, Rodne, Hinkle, Hailey, Bailey, Kretz, Sump, Roach, Newhouse, Orcutt, Ahern, Alexander, Skinner, McCune, Hurst, Schindler, Smith, Walsh, Campbell, and McDonald

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1 AN ACT Relating to ensuring that all registered sex offenders have
2 submitted a biological sample for inclusion in the DNA identification
3 system; amending RCW 43.43.754; and making appropriations.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.43.754 and 2002 c 289 s 2 are each amended to read
6 as follows:

7 (1) Every adult or juvenile individual convicted of a felony,
8 stalking under RCW 9A.46.110, harassment under RCW 9A.46.020,
9 communicating with a minor for immoral purposes under RCW 9.68A.090, or
10 adjudicated guilty of an equivalent juvenile offense, and every adult
11 or juvenile individual who is a registered sex offender on or after the
12 effective date of this section, must have a biological sample collected
13 for purposes of DNA identification analysis in the following manner:

14 (a) For persons convicted of such offenses or adjudicated guilty of
15 an equivalent juvenile offense who do not serve a term of confinement
16 in a department of corrections facility, and do serve a term of
17 confinement in a city or county jail facility, the city or county shall
18 be responsible for obtaining the biological samples either as part of
19 the intake process into the city or county jail or detention facility

1 for those persons convicted on or after July 1, 2002, or within a
2 reasonable time after July 1, 2002, for those persons incarcerated
3 before July 1, 2002, who have not yet had a biological sample
4 collected, beginning with those persons who will be released the
5 soonest.

6 (b) For persons convicted of such offenses or adjudicated guilty of
7 an equivalent juvenile offense who do not serve a term of confinement
8 in a department of corrections facility, and do not serve a term of
9 confinement in a city or county jail facility, the local police
10 department or sheriff's office is responsible for obtaining the
11 biological samples after sentencing on or after July 1, 2002.

12 (c) For persons convicted of such offenses or adjudicated guilty of
13 an equivalent juvenile offense, who are serving or who are to serve a
14 term of confinement in a department of corrections facility or a
15 department of social and health services facility, the facility holding
16 the person shall be responsible for obtaining the biological samples
17 either as part of the intake process into such facility for those
18 persons convicted on or after July 1, 2002, or within a reasonable time
19 after July 1, 2002, for those persons incarcerated before July 1, 2002,
20 who have not yet had a biological sample collected, beginning with
21 those persons who will be released the soonest.

22 (d) For registered sex offenders who do not have a biological
23 sample collected under (a) through (c) of this subsection, the county
24 sheriff is responsible for collecting the sample.

25 (e) If a DNA sample from an individual is already included in the
26 DNA database, a subsequent biological sample from the same individual
27 is not required to be collected, submitted, or tested under this
28 section.

29 (2) Any biological sample taken pursuant to RCW 43.43.752 through
30 43.43.758 may be retained by the forensic laboratory services bureau,
31 and shall be used solely for the purpose of providing DNA or other
32 tests for identification analysis and prosecution of a criminal offense
33 or for the identification of human remains or missing persons. Nothing
34 in this section prohibits the submission of results derived from the
35 biological samples to the federal bureau of investigation combined DNA
36 index system.

37 (3) The director of the forensic laboratory services bureau of the
38 Washington state patrol shall perform testing on all biological samples

1 collected under subsection (1) of this section, to the extent allowed
2 by funding available for this purpose. The director shall give
3 priority to testing on samples collected from those adults or juveniles
4 convicted of a felony or adjudicated guilty of an equivalent juvenile
5 offense that is defined as a sex offense or a violent offense in RCW
6 9.94A.030.

7 (4) This section applies to all adults who are convicted of a sex
8 or violent offense after July 1, 1990; and to all adults who were
9 convicted of a sex or violent offense on or prior to July 1, 1990, and
10 who are still incarcerated on or after July 25, 1999. This section
11 applies to all juveniles who are adjudicated guilty of a sex or violent
12 offense after July 1, 1994; and to all juveniles who were adjudicated
13 guilty of a sex or violent offense on or prior to July 1, 1994, and who
14 are still incarcerated on or after July 25, 1999. This section applies
15 to all adults and juveniles who are convicted of a felony other than a
16 sex or violent offense, stalking under RCW 9A.46.110, harassment under
17 RCW 9A.46.020, or communicating with a minor for immoral purposes under
18 RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense,
19 on or after July 1, 2002; and to all adults and juveniles who were
20 convicted or adjudicated guilty of such an offense before July 1, 2002,
21 and are still incarcerated on or after July 1, 2002.

22 (5) This section creates no rights in a third person. No cause of
23 action may be brought based upon the noncollection or nonanalysis or
24 the delayed collection or analysis of a biological sample authorized to
25 be taken under RCW 43.43.752 through 43.43.758.

26 (6) The detention, arrest, or conviction of a person based upon a
27 database match or database information is not invalidated if it is
28 determined that the sample was obtained or placed in the database by
29 mistake, or if the conviction or juvenile adjudication that resulted in
30 the collection of the biological sample was subsequently vacated or
31 otherwise altered in any future proceeding including but not limited to
32 posttrial or postfact-finding motions, appeals, or collateral attacks.

33 NEW SECTION. **Sec. 2.** The sum of dollars, or as much
34 thereof as may be necessary, is appropriated for the fiscal year ending
35 June 30, 2009, from the general fund to the Washington state patrol for
36 the purposes of this act.

1 NEW SECTION. **Sec. 3.** (1) The sum of dollars, or as
2 much thereof as may be necessary, is appropriated for the fiscal year
3 ending June 30, 2009, from the general fund to the department of
4 community, trade, and economic development for the purposes of this
5 act.

6 (2) The department of community, trade, and economic development
7 shall distribute the funds appropriated in this section to each county
8 in the state based on the percentage of the total number of registered
9 sex offenders statewide that reside in the county.

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